

BRENDA C. ROBERTS,

Plaintiff/Judgment Creditor,

v.

PATRICK PRINTUP, JR.,

Defendant/Judgment Debtor,

v.

SHELTER MUTUAL INSURANCE CO.,

Garnishee.

MEMORANDUM AND ORDER

This case is before the court on Plaintiff’s Motion for Summary Judgment (Doc. 111). The issue before the court is limited: Did Shelter Mutual Insurance Co., as a matter of law, act negligently when it failed to accept or otherwise respond to plaintiff’s April 11, 2002 policy limits settlement offer? The Tenth Circuit has observed that Shelter did, in fact, fail to comply with the Unfair Claims Settlement Practices Model Regulation § 6(a), which has been adopted by Kansas. Regulation § 6(a) provides that “every insurer, upon receiving notification of a claim shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time.” The Tenth Circuit held that this court erred when it found that Shelter’s conduct could not, as a matter of law, constitute negligence, particularly in light of Regulation § 6(a).

The Tenth Circuit ruling does not, however, direct this court to enter judgment in favor of plaintiff on this claim. Nor does it suggest that judgment as a matter of law is appropriate on this claim. After reviewing the record and the evidence, the court finds that genuine issues of material

fact exist as to whether Shelter's conduct was negligent.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Summary Judgment (Doc. 111) is denied.

Dated this 21st day of August 2006, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge